

Exhibit A

www.chicagotribune.com/news/local/ct-koch-brothers-petcoke-delays-20140725,0,7783972.story

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Petcoke firm threatens lawsuit over city rules

Company seeks to delay storage sheds until 2018, raise height limits on piles

By [Michael Hawthorne](#), Tribune reporter

3:41 PM CDT, July 25, 2014

Escalating a fight with Mayor Rahm Emanuel, a company that stores enormous mounds of petroleum coke on Chicago's Southeast Side is threatening to sue unless city officials allow the gritty piles to remain uncovered for another four years.

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KCBX Terminals, a firm controlled by industrialists Charles and David Koch, is pushing to delay the construction of storage sheds for two years past a 2016 deadline imposed by the Emanuel administration in response to complaints about black dust blowing into surrounding neighborhoods.

The company also wants to raise the maximum height of its piles to 45 feet rather than the 30-foot limit required under new city regulations, according to documents filed by KCBX that seek several exemptions, known as variances, from the Chicago Department of Public Health.

"If the department denies the variances, KCBX's only recourse would be to challenge the department in court," the company's lawyers wrote in an 88-page request that repeatedly describes the Emanuel rules as an "unreasonable hardship."

KCBX is in the midst of dramatically expanding its storage of petroleum coke, or petcoke, from the nearby BP refinery in Whiting and other refineries across the Midwest. State officials last year cleared the way for the company to handle up to 11 million tons a year of petcoke and coal at its sprawling open-air terminal off Burley Avenue between 108th and 111th streets.

Last year, another Koch subsidiary removed a waterfront mound of petcoke in Detroit under pressure from local political leaders, but KCBX appears to be girding for a long battle in Chicago. Even if the city balks at giving the company what it wants, dragging the dispute into court could keep the piles uncovered indefinitely.

The company's legal threat comes less than a month after the U.S. Environmental Protection Agency accused KCBX of violating the federal Clean Air Act. Pollution monitors recorded high levels of lung-damaging particulate matter on April 12 and May 8 near the Burley Avenue terminal and a second KCBX site a few blocks north off 100th Street.

EPA investigators also used dust wipes to sample the black film coating about a dozen locations in the East Side neighborhood. The EPA said it found the chemical fingerprints of petcoke in five of the samples, with the highest levels found on the exteriors of homes closest to uncovered piles of the refinery byproduct.

In February, Emanuel vowed he would make it too costly for companies to store petcoke in Chicago. "Dumping an environmental product that damages our health is not something that we want to welcome," he told WBEZ radio.

KCBX and its allies responded that Emanuel's regulations sent the wrong message to the business community and could cost Chicago 40 jobs at the company's storage terminals.

"It seems like he's more interested in high-tech white-collar jobs downtown in the Loop than the industrial jobs that the neighborhoods really need," Doug Whitley, president of the Illinois Chamber of Commerce, said after Emanuel unveiled his petcoke rules.

The city is taking public comments until Sept. 30 about KCBX's request to delay or change provisions of the petcoke rules. In a statement, the mayor's office said the regulations "set a high bar for the issuance of variances, allowing them only if the company can prove that the change would not affect the surrounding environment and properties or create a public nuisance."

People who live in the East Side and South Deering neighborhoods are already livid that Emanuel gave the company two years to erect storage sheds. Covering the piles is seen as the most effective way to eliminate potential dust problems.

Residents say the mountains of petcoke and coal are an eyesore and a threat to public health.

"The mayor promised to make it tougher for them to operate, not easier," said Peggy Salazar, executive director of the Southeast Environmental Task Force and a longtime neighborhood resident. "Four more years of dust is just going to make the situation worse for us."

Mounds of petcoke are piling up near Midwest refineries that strip oil out of tarlike crude from Canada known as bitumen. Some of the high-carbon, high-sulfur byproduct is burned along with coal at power plants and cement kilns in the United States, but increasingly it is shipped to China, Mexico and other countries with more lenient environmental laws.

KCBX's pair of sites along the Calumet River have become a hub for petcoke shipped from refineries in Illinois, Indiana, Kansas, Minnesota and Wyoming. The company has a contract to store all of the petcoke generated by the BP refinery in Whiting, which is more than tripling its output to 2.2 million tons a year.

The Chicago sites are among several nationwide affiliated with Koch Industries, one of the nation's largest privately held companies. The billionaire Koch brothers who control the company are major contributors to conservative advocacy groups and organizations that oppose environmental regulations.

As it pushes back against Chicago's regulations, KCBX hired an environmental consultant who reported he found no signs of petcoke in soil samples from surrounding neighborhoods — a conclusion that runs counter to the EPA's findings in the same area.

The company also cites data collected by a state air pollution monitor at Washington High School, about two-thirds of a mile southeast of the Burley Avenue terminal. The monitor has recorded no violations of the federal standard for particulate matter since at least 1993, though prevailing winds typically don't blow toward the monitor from the KCBX site.

KCBX says it has already taken several steps to tamp down dust, including routine cleaning of truck wheels and frequent sweeping of roadways inside the storage terminals.

The biggest improvement, KCBX says, is a system of pole-mounted sprinklers that can be adjusted based on wind speed and direction.

"We've complied with the vast majority of the city's new requirements," Jake Reint, a company spokesman, said in an email. "We're seeking a small number of limited variances that are allowed for under the rules in order to maintain our customer obligations as we transition to implementing the enclosure project."

Asked about the lawsuit threat, Reint said: "We remain committed to working with the city. That's where our focus is."

The documents KCBX filed with the city include a picture of a petcoke storage shed that another Koch subsidiary took 28 months to erect in Pittsburg, Calif., far less time than the company is asking for in Chicago.

More time is needed here, Reint said, to dismantle the sprinkler system and reconfigure the Burley Avenue terminal to handle all of the petcoke and coal stored by the company in Chicago. The 100th Avenue terminal will eventually be shuttered, he said.

Critics accused KCBX executives of trying to undermine the city's efforts at the same time they promote the company as a good neighbor.

"They are looking to keep doing business as usual," said Meleah Geertsma, an attorney with the nonprofit Natural Resources Defense Council. "How can we trust KCBX to follow through on their promises if they are already trying to gut the regulations?"

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Exhibit B

www.chicagotribune.com/news/local/ct-petcoke-water-pollution-20140305,0,865894.story

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Illinois expands crackdown on petroleum coke

Attorney general sues company over runoff in Calumet River

By [Michael Hawthorne](#), Tribune reporter

7:27 PM CST, March 4, 2014

Already targeted as a source of lung-damaging air pollution, a company that has been piling petroleum coke on Chicago's Southeast Side now faces new accusations that it illegally allowed contaminated runoff to spill into the Calumet River.

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In a lawsuit filed Tuesday, Illinois Attorney General Lisa Madigan urged a Cook County judge to cite KCBX Terminals for violating water quality and open dumping laws by failing to prevent petroleum coke and coal from washing into the river at the company's site on 100th Street in the South Deering neighborhood.

During a November inspection, investigators from the Illinois Environmental Protection Agency reported that the only thing separating the black mounds from the river were sandbags piled on a narrow concrete walkway. Several sandbags were missing or out of place, according to the suit.

To tamp down dust from the piles, KCBX sprays them with water from giant sprinklers. But in trying to fix one environmental problem, the lawsuit alleges, the company created another.

"My office is continuing to work on several fronts, both in the courtroom and in the legislature, to force these companies to clean up their act in the interest of the surrounding community's health and safety," Madigan said in a statement.

KCBX, a company controlled by industrialists Charles and David Koch, already is defending a lawsuit from Madigan that accuses the company of violating air pollution laws at another storage terminal off Burley Avenue between 108th and 111th streets. Residents in the East Side neighborhood complained that gritty black dust frequently blew off the piles last summer.

Since the Tribune and other local media drew attention to the problems in October, elected officials have taken a number of steps to crack down on KCBX and Beemsterboer Slag Co., the owner of a third riverfront storage terminal.

Mayor Rahm Emanuel, who has said he wants the piles out of the city for good, has proposed an ordinance that would require companies to fully enclose stored petroleum coke and coal. Gov. Pat Quinn has proposed rules and Madigan has backed legislation that would impose similar requirements statewide.

"We will continue our efforts to force these petroleum coke facilities to either clean up or shut down," Emanuel

said in a joint statement issued with Madigan and Quinn.

Jake Reint, a KCBX spokesman, said the company has been negotiating a settlement with state and local officials.

"We are disappointed by the state's decision to file a lawsuit on a matter that we believe can be resolved outside of court," Reint said. "As has been the case throughout our 20 years of operations in Illinois, KCBX is committed to complying with all rules and regulations and working cooperatively with regulators whenever possible to resolve our differences."

KCBX has a contract to store the petroleum coke, or petcoke, generated by the BP refinery just over the state border in Whiting. To process more oil from Canadian tar sands, BP recently completed an overhaul of the refinery that will more than triple its output of petcoke to 2.2 million tons a year.

Some of the high-carbon, high-sulfur material is burned in coal-fired power plants and cement kilns in the U.S. Most is exported to China, Mexico and other countries with more lenient environmental laws.

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Exhibit C

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BUSINESS

Dustup Grows Over Refinery Byproduct

Black 'Pet Coke' Blows Into Neighborhoods, Residents Say

By BEN LEFEBVRE and BEN KESLING

Updated Nov. 26, 2013 5:08 p.m. ET



Residents on Chicago's South Side say pet-coke mounds like this one have raised environmental concerns. *Associated Press*

Mountains of a black, powdery refinery byproduct called petroleum coke are piling up from Chicago to Corpus Christi, Texas, prompting local officials to fight what residents say is a dusty scourge that coats houses, cars and even pets.

Chicago's City Council this week debated a proposed ordinance that would ban pet-coke storage within city limits, after officials said clouds of it blew from a storage site on the city's South Side into a nearby neighborhood. The dusting from Koch Industries Inc.'s KCBX Terminals Co., which operates the site adjacent to the Calumet River, prompted Chicago Mayor Rahm Emanuel last week to order the city's public-health department to draft new regulations governing pet coke.

"We will be working actively with our state and federal partners to force these petroleum-coke facilities to either clean up or shut down," Mr. Emanuel said.

Tighter storage rules being drafted include height restrictions for pet-coke piles and a requirement that outdoor storage sites be enclosed on three sides, if not relocated completely indoors. The new restrictions could go into effect in early 2014.

The mounting public backlash against pet coke comes as U.S. refineries process an increasing amount of heavy, sludgy crude from places like Canada's oil sands, throwing off more pet coke as a byproduct. Pet coke can be burned to create electricity and run industrial furnaces, but its use in the U.S. is limited because of stringent air-quality standards.

Because pet coke is stored in a pulverized form, it needs to be sprayed with water or chemicals to keep it from blowing away before it can be loaded onto barges, railcars or oceangoing ships. Buyers across Asia, Latin America and parts of Europe purchase U.S.-produced pet coke, but kinks in the distribution chain can create export holdups, resulting in massive piles of it springing up in heavily populated urban areas.

"All that black stuff is all over the place all the time," said Danny Knezevich, who works in real estate and lives on the South Side. "It blows in all directions."

Pet-coke piles first gained public attention in May when a three-story heap of it being sold by Koch Carbon LLC, another Koch Industries subsidiary, appeared in Detroit. The city eventually ordered it removed.

Earlier this month, Sen. Dick Durbin (D., Ill.) sent a letter to the U.S. Environmental Protection Agency that triggered investigations into Chicago's pet-coke storage terminals.

Illinois Attorney General Lisa Madigan filed a complaint against pet-coke storage operator KCBX this month alleging the dust blowing off its Chicago piles—some of which reached 60 feet high—violate state environmental laws.

KCBX isn't sure whether the dust came from its facility, company spokesman Jake Reint said. The August dust cloud occurred while terminal operations were halted during a \$10 million site upgrade that included improvements to its dust-curtaiment capabilities, he added.

No dust blew from the terminal during a November storm, Mr. Reint said.

The Illinois Attorney General also filed a complaint against privately held George J. Beemsterboer Inc. for storing pet coke without a license on its Chicago property. That company has stockpiled pet coke for years without getting cited, but agreed to remove the piles while it waits for a permit, according to company owner Alan Beemsterboer. He said he thinks protests against pet coke may stem from opposition to the use of crude from Canadian oil sands rather than a true dust problem.

The Texas Commission on Environmental Quality, the state environmental regulator, is talking with pet-coke suppliers in Corpus Christi about how to use existing regulations to best manage the piles, after receiving more than a dozen complaints about dust in the past five years, an agency spokesman said.


Tammy Foster, who lives near the Port of Corpus Christi in southeast Texas, said dust from pet-coke stockpiles covers her house, truck and occasionally her dog, Suzy.

"Every time the north wind blows we get covered in pet coke," she said.

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Exhibit D

Progress Illinois

Quick Hit | Aaron Cynic | Tuesday November 19th, 2013, 5:39pm |

Public Pressure Over South Side Petcoke Piles Continues To Build

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About a dozen demonstrators picketed outside the Union League Club this morning where Illinois Environmental Protection Agency (IEPA) Director Lisa Bonnett was giving a talk to local business leaders on environmental sustainability. The protesters wanted to voice their concerns to Bonnett over petroleum coke, also known as petcoke, which is a thick powdery byproduct of petroleum refining stored on Chicago's South Side.



Holding a small sign reading "Stop the petcoke pollution," Tom Shepherd, president of the Southeast Environmental Task Force told reporters that in the neighborhood, "You can't be outdoors when the wind is blowing hard" because the petcoke dust is blowing through the air.

Last week, angry Southeast Side residents [turned up at a community meeting](#) in Chicago to comment on a proposed construction permit for KCBX Terminals Company, the Koch Brothers-controlled firm which operates the facilities storing the petcoke. Though an IEPA official told attendees KCBX was only seeking to bring in new equipment, not increase the amount of petcoke stored at the facility, residents were more than skeptical.



Shepherd and several others braved the chilly morning air Tuesday to bring their concerns to Bonnett, who was making an appearance at Chicago's Union League Club. The piles of Petcoke are currently stored in uncovered terminals along the Calumet River, and Shepherd said that the water cannons KCBX uses to suppress the dust aren't keeping the petcoke contained.

"They have not offered a containment plan whatsoever. What they have offered is they've installed these water cannons, but the water cannons are really ineffective. When the wind blows real strongly it blows the water away and blows the dust around too. The water isn't doing it." The water isn't doing it."

On the heels of two separate lawsuits [filed by Illinois Attorney General Madigan](#) and [four South Side families affected by petcoke](#) as well as investigations by the Illinois EPA and the U.S. EPA, Chicago Mayor Rahm Emanuel is calling on the Department of Public Health to [draft regulations for petcoke storage](#) in the city. [The Chicago Tribune reports](#) an email from the mayor's office sent on Monday

promised "more aggressive action" would be taken to stop the ashy waste from blowing through city neighborhoods and into the river. Shepherd said that while he was grateful for the mayor's directive, he is unsure if it is strong enough. Shepherd was also happy to see that the EPA installed monitors around the sites last week, but he also noted that neighborhood residents "have been requesting them for years."

On her way out of the event, Bonnett met with Shepherd and other demonstrators for about 10 minutes. Bonnett said the Illinois EPA is working with the offices of both Lisa Madigan and Mayor Emanuel on the petcoke issue. She also said KCBX would not receive the construction permit this week.

"We don't have enough information to make any decisions, so there will be no decisions made this week as we continue to really understand and study what's before us and to look at the controls that will be necessary to ensure that we have a safe environment for the community," Bonnett explained.

On Monday, U.S. Rep. Robin Kelly (D-IL,2), who represents many of the Chicago residents affected by petcoke pollution, sent a letter to Bonnett citing the "recent spate of legal actions stemming from the ongoing petcoke operations."

According to Kelly's letter, data she commissioned from the Congressional Research Service "found that fugitive dust from petcoke does have negative health impacts on animals and is a public nuisance." The congresswoman also made note of a resolution, [HR 2298](#), that she is co-sponsoring, which calls for "an extensive study" on the environmental and health effects associated with petcoke. Considering all of the investigations, pending research and lawsuits regarding petcoke, Kelly requested that the Illinois EPA "reconsider KCBX's application until all the negative health and environmental impacts can be fully assessed and understood."

Stay tuned.

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Exhibit E



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The Big Story

Piles of Midwest 'petcoke' raising residents' ire

By [TAMMY WEBBER](#)

— Nov. 25, 2013 5:45 PM EST

[Home](#) » [Canada](#) » Piles of Midwest 'petcoke' raising residents' ire



In this Oct. 25, 2013 photo, the Willis Tower in downtown Chicago provides a backdrop to a huge mound of petroleum coke or pet coke, in the a residential area southeast part of the city. An increasing volume and size of petcoke piles is causing environmental concerns for residents in this working-class neighborhood. (AP Photo/Charles Rex Arbogast)

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CHICAGO (AP) — The images are startling. Billowing black clouds darken the daytime sky as wind-driven grit pelts homes and cars and forces bewildered residents to take cover.

The onslaught, captured in photos and video footage from Detroit and Chicago this year, was caused by the same thing: brisk winds sweeping across huge black piles of petroleum coke, or "petcoke," a powdery byproduct of oil refining that's been accumulating along Midwest shipping channels and sparking a new wave of health and environmental concerns.

The piles are evidence of a sharp increase in North American oil production — particularly crude extracted from oil sands in Canada — that has been trapped in the Midwest because of limited pipeline capacity to carry it to the Gulf and West coasts, leading to unprecedented amounts of oil refining and petcoke production here.

In Midwestern neighborhoods near refineries, the growing black mountains have brought outcries from residents and new efforts by lawmakers to control or banish the blowing dust.

"We could barely open the windows this summer because the black dust was so bad," said Susanna Gomez, 37, a mother and grandmother who lives on Chicago's far southeast side, across a set of railroad tracks from a shipping terminal that stockpiles petcoke until it can be loaded on to ships for export. She said she worries about one of her sons, who's asthmatic, but doesn't have the money to move.

Alan Beemsterboer, whose family owns another nearby site that long has handled slag, asphalt and coal, and now, increasingly, petcoke, said he doesn't understand the controversy.

"This has been an industrial area forever — a coke plant used to be there, a steel mill used to be there," Beemsterboer said. "Coal and petcoke are just dirty words now. "

Petcoke has been part of the American industrial landscape since the 1930s, when refineries began installing equipment to "cook" residue left over from making gasoline and diesel into a solid fuel that could be burned in power plants and cement kilns.

But the sheer volume of petcoke that appeared suddenly in Detroit and Chicago this year — almost all of it in open-air piles — was unprecedented, and caught residents and public officials off guard.

With the amount of Canadian oil entering the U.S. increasing almost daily, refineries like Marathon in Detroit, BP in Whiting, Ind., and Phillips 66 in Roxana, Ill., have expanded to handle the glut. Even more oil could be on the way if the controversial Keystone XL pipeline is approved, though by then additional domestic pipelines could direct some to refineries in other regions, experts say.

Refineries usually sell the petcoke to other companies, which store it until it can be loaded onto Great Lakes ships for export to places like China. Burning it emits high levels of soot and greenhouse gases, so its use in the U.S. is limited.

In Detroit, petcoke began appearing along the Detroit River in the spring, several months after the Marathon Petroleum Corp. refinery completed a \$2.2 billion expansion. But an outcry by residents, who shot video footage of the blowing grit, prompted city officials to order the removal of the piles.

In Chicago, residents became alarmed when the black piles began growing about six months ago, said Tom Shepherd, a member of a neighborhood group. The last straw was when the petcoke went airborne on Aug. 30 and blew into their yards, churches and a Little League field.

Chicago Mayor Rahm Emanuel has ordered the city Health Department to adopt regulations for petcoke, while aldermen introduced competing ordinances to regulate or ban it outright. The city and Illinois Attorney Gen. Lisa Madigan have filed

suit against Beemsterboer over the petcoke on his sites.

"You have a byproduct ... that is economically and environmentally degrading a community and the health for our children, and there's nothing on the books that allows Chicago to protect its own citizens," Emanuel said during a news conference.

Although petcoke is not classified as hazardous, it contains heavy metals and inhaling the fine particles can cause respiratory problems.

Shepherd said residents worry because "there's already lot of asthma, cancer and other illnesses around here."

Chicago's southeast side is an area where heavy industry and working-class residents have coexisted for generations — one neighborhood is even called Slag Valley. Immigrants came to work in the steel mills along Lake Michigan and many families stayed after the mills began closing.

They now dream of a renewal, including a city plan for a huge park at a former steel mill site, but worry that petcoke will "overtake the entire area and we'll have nothing but black mountains for miles and miles along the river," Shepherd said.

The stage is set for more. Petcoke production at the BP refinery is expected to triple next year, from 700,000 tons a year to 2.2 million tons, after a \$4.2 billion upgrade scheduled for completion next month, spokesman Scott Dean said.

The company that handles BP's petcoke storage, KCBX, said it's spending more than \$10 million on upgrades, including improved "dust-suppression capabilities."

But Emanuel spokesman Bill McCaffrey said the mayor is considering requiring that piles be completely or partially enclosed. Some states, such as California, have such requirements.

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